

## § 52.1629

any day on which the 30-day rolling average emission limit in paragraph (d) of this section is not met shall be counted as an excess emissions day. The duration of the excess emissions period shall be the number of unit operating hours on that day. Any hour in which a CEMS is out-of-service (excluding hours in which required calibrations and QA tests are performed) shall be counted as an hour of monitor downtime.

(g) *Equipment Operations.* At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the unit including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, and inspection of the unit.

(h) *Enforcement.* (1) Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant as to whether the unit would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not the owner or operator has violated or is in violation of any standard or applicable emission limit in the plan.

(2) Emissions in excess of the level of the applicable emission limit or requirement that occur due to a malfunction shall constitute a violation of the applicable emission limit.

[76 FR 52439, Aug. 22, 2011]

## § 52.1629 Visibility protection.

The portion of the State Implementation Plan revision received on September 17, 2007, from the State of New Mexico for the purpose of addressing the visibility requirements of Clean Air Act section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone and the 1997 fine

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particulate matter National Ambient Air Quality Standards is disapproved.

[76 FR 52440, Aug. 22, 2011]

## §§ 52.1630–52.1633 [Reserved]

## § 52.1634 Significant deterioration of air quality.

(a) The plan submitted by the Governor of New Mexico on February 21, 1984 (as adopted by the New Mexico Environmental Improvement Board (NMEIB) on January 13, 1984), August 19, 1988 (as revised and adopted by the NMEIB on July 8, 1988), and July 16, 1990 (as revised and adopted by the NMEIB on March 9, 1990), Air Quality Control Regulation 707—Permits, Prevention of Significant Deterioration (PSD) and its Supplemental document, is approved as meeting the requirements of part C, Clean Air Act for preventing significant deterioration of air quality. Additionally, on November 2, 1988, EPA approved New Mexico's stack height regulation into the SIP (53 FR 44191), thereby satisfying the conditions of EPA's conditional approval of the State's PSD program on February 27, 1987 (52 FR 5964). Therefore, the conditional approval was converted to a full approval on July 15, 2011.

(b) The requirements of section 160 through 165 of the Clean Air Act are not met for federally designated Indian lands. Therefore, the provisions of § 52.21 except paragraph (a)(1) are hereby incorporated and made a part of the applicable implementation plan, and are applicable to sources located on land under the control of Indian governing bodies.

(c) The plan submitted by the Governor in paragraph (a) of this section for Prevention of Significant Deterioration is not applicable to Bernalillo County. Therefore, the following plan described below is applicable to sources located within the boundaries of Bernalillo County (including the City of Albuquerque). This plan, submitted by the Governor of New Mexico on April 14, 1989, August 7, 1989, May 1, 1990, May 17, 1993, May 24, 2006, August 16, 2010, and December 15, 2010 and respectively adopted on March 8, 1989, July 12, 1989, April 11, 1990, February 10, 1993, December 22, 2005, April 13, 2006, July 28, 2010, and December 10,

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2010, by the Albuquerque/Bernalillo County Air Quality Control Board, containing Part 61—Prevention of Significant Deterioration is approved as meeting the requirements of part C of the Clean Air Act for the prevention of significant deterioration of air quality.

[58 FR 67333, Dec. 21, 1993, as amended at 68 FR 11323, Mar. 10, 2003; 68 FR 74490, Dec. 24, 2003; 75 FR 82558, Dec. 30, 2010; 76 FR 41705, July 15, 2011; 76 FR 43153, July 20, 2011; 76 FR 81838, Dec. 29, 2011; 77 FR 58035, Sept. 19, 2012]

### § 52.1635 Rules and regulations.

(a) *Part D disapproval*: The requirements of § 51.281 of this chapter are not met since the measurement provisions of Sections A, B.2, and B.3 of New Mexico Regulation 506 make these sections unenforceable. Therefore, Sections A, B.2, and B.3 of Regulation 506 are disapproved.

(b) *Regulation for measurement of emission limitations (particulate matter from nonferrous smelters)*. (1) This regulation applies to new and existing nonferrous smelters as they are defined in New Mexico Regulation 506. The requirements of this paragraph replace the requirements of Sections A, B.2, and B.3 of Regulation 506. All other requirements of Regulation 506 are approved as part of the plan.

(2) No person owning or operating a new nonferrous smelter shall permit, cause, suffer, or allow particulate matter emissions to the atmosphere in excess of 0.03 grains per dry standard cubic foot (as defined in 40 CFR part 60) of discharge gas.

(3) No person owning or operating an existing nonferrous smelter shall permit, cause, suffer, or allow particulate matter to the atmosphere from:

(i) The stack or stacks serving the acid plant in excess of 0.05 grains per dry standard cubic foot of discharge gas.

(ii) The stack or stacks serving the reverberatory feed dryer in excess of 0.05 grains per dry standard cubic foot of discharge gas.

(c) *Regulation for compliance testing (particulate matter from nonferrous smelter)*. The requirements of § 60.8(f) of 40 CFR part 60 shall apply to paragraph (b)(2) of this section, and to each oper-

ation of Section B.4 of New Mexico Regulation 506.

[45 FR 24469, Apr. 10, 1980, as amended at 51 FR 40677, Nov. 7, 1986]

### § 52.1636 [Reserved]

### § 52.1637 Particulate Matter (PM<sub>10</sub>) Group II SIP commitments.

(a) On August 19, 1988, the Governor of New Mexico submitted a revision to the State Implementation Plan (SIP) that contained commitments, from the Director of New Mexico Environmental Improvement Division, for implementing all of the required activities including monitoring, reporting, emission inventory, and other tasks that may be necessary to satisfy the requirements of the PM<sub>10</sub> Group II SIPs. The New Mexico Environmental Improvement Board adopted this SIP revision on July 7 and 8, 1988.

(b) The State of New Mexico has committed to comply with the PM<sub>10</sub> Group II State Implementation Plan (SIP) requirements, as articulated in the FEDERAL REGISTER notice of July 1, 1987 (52 FR 24670), for Dona Ana, Grant, Sandoval, Santa Fe, and Taos counties as provided in the New Mexico PM<sub>10</sub> Group II SIPs. In addition to the SIP, a letter from the Director of New Mexico Environmental Improvement Division, dated July 15, 1988, stated that:

This letter is in reference to PM<sub>10</sub> Group II State Implementation Plan (SIP) requirements. In response to the requirements of the July 1, 1987 FEDERAL REGISTER, notice on PM<sub>10</sub>, the Environmental Improvement Division has prepared a Committal SIP for Group II areas. As expressed in this SIP revision, the Division is committing to carry out all required actions such as monitoring, reporting, emission inventory development, and other tasks necessary to satisfy the SIP requirements for PM<sub>10</sub> Group II areas.

[54 FR 20579, May 12, 1989]

### § 52.1638 Bernalillo County particulate matter (PM<sub>10</sub>) Group II SIP commitments.

(a) On December 7, 1988, the Governor of New Mexico submitted a revision to the State Implementation Plan (SIP) for Bernalillo County that contained commitments, from the Director of the Albuquerque Environmental Health Department, for implementing all of